

Code of conduct —Ed.L. Secs. 6439 —6443

Code of conduct means the written policies adopted by an institution governing student behavior, rights, and responsibilities while such student is matriculated at Davis College.

Definition of Geography

On-Campus: Any building or property owned or controlled by an institution within the same reasonably contiguous geographic area and used by the institution in direct support of or in a manner related to, the institution's educational purposes, including residence halls; and any building or property that is owned by the institution but controlled by another person, is frequently used by students, and supports institutional purposes.

Non-Campus Building or Property: Any building or property owned or controlled by a student organization that is officially recognized by the institution; or any building or property owned or controlled by an institution that is used in direct support of, or in relation to the institution's educational purposes, is frequently used by students, and is not within the same reasonably contiguous geographic area of the institution.

Public Property: All public property, including thoroughfares, streets, sidewalks, and parking facilities that is within the campus or immediate adjacent to and accessible from the campus.

Emergency Response and Evacuation Procedures

General Notification Procedures:

Davis College takes the safety and welfare of the students, faculty, staff and visitors very seriously. In the event of a property threatening or life-threatening situation, the proper community authorities (police/fire department) would be notified as well as the Davis College Safety Team. Davis College and partners with local police agency (Johnson City Police Department) for any criminal, health or safety issues exceeding the limitations of the Security officers. Davis College also partners with the fire agency (Johnson City Fire Department) for situations requiring their assistance.

In the event of an emergency situation, Campus Security would notify the proper authorities through 911 giving as much information known at the time while requesting their assistance. Depending on the severity of the situation, Campus Security would notify the Director of Student Development and (or) the President alerting them of the current situation on campus and informing them of notifications made. From this alert to the Davis College Safety Team a decision will be made as to what notification is needed to those on campus.

Should outside police or fire authorities be summoned to campus, Campus Security will work to assist these agencies. The Davis College Safety Team will stay in communication with Campus Security and these authorities and keep students and staff updated regarding the situation. The options for mass notification instituted around campus is text messaging using the phone numbers that individuals have voluntarily signed up for. A campus wide E-mail distribution list has also been set up to notify students and staff of situations and while also giving them any needed directions. This communication would have some delay for actual contact but a small percentage would see this notification as well.

Once the authorities are on campus, Campus Security will work to assist these agencies. The Davis College Safety Team will stay in communication with Campus Security and these authorities to put out internal as well as external communications as needed.

Campus Security and Access

Main Campus: During business hours, the College (excluding residence halls) will be open to students, parents, employees, contractors, guests and invitees. During non-business hours access to the College facilities is by key, if issued, or by swipe card. Contractors are required to check-in to the Campus Security Booth at the main entrance of campus.

- Dorms: Chatlos and Patterson halls are secured 24 hours a day. Some residence halls are accessed by key only and others by swipe card only.
- Clements Hall: Clements Hall is only accessible with swipe card and code access.
- Mason Hall: Mason Hal is only accessible by code access.
- Phillips Hall: Phillips Hall is only accessible by key or code access.

Security Maintenance

Facilities and landscaping are maintained in a manner that minimizes hazardous conditions. Davis College Campus Security regularly patrols the main campus and Chrisfield Campus reports malfunctioning lights and other unsafe conditions to facilities management for repair. Other members of the campus should promptly report equipment problems to Facilities Management.

Access to the campus facilities is available during the day but facilities are locked at night. The normal business hours of the campus are 8:30 AM to 4:30 PM. There are campus security officers making rounds on the Campus, securing all facilities, and they are also available for any security needs that may arise.

Policies regarding procedures to report crimes committed on campus, criminal actions or other emergencies and institution's response to such, in compliance with the Federal Bureau of Investigation's Uniform Crime Reporting System as amended by the Hate Crime Statistics Act and Title II of Public Law 101-542, as amended, in the Crime Awareness and Campus Security, Davis College annually prepares, publishes, and distributes any information to all current students and employees, and to any applicant for enrollment or employment, upon request.

Davis College provides a Student Life Coordinator for each. Student Life Coordinators collect information regarding criminal conduct or emergencies and present this information to Campus Security for necessary action.

Violence Against Women Reauthorization Act of 2013

Davis College prohibits the offenses of sexual harassment, domestic violence, dating violence, sexual assault and stalking (those terms are defined on pages 14 through 18) and reaffirms its commitment to maintaining a campus environment that emphasizes the dignity and worth of all members of the college community. Toward that end, Davis College issues this statement of policy to inform the campus community of our programs to address domestic violence, dating violence, sexual assault and stalking as well as the procedures for institutional disciplinary action in cases of alleged dating violence, domestic violence, sexual assault, or stalking, which

will be followed regardless of whether the incident occurs on or off campus when it is reported to a College official.

Davis College does not discriminate on the basis of sex in its educational programs and sexual harassment and sexual violence are types of sex discrimination. Other acts can also be forms of sex-based discrimination and are also prohibited by Davis College as well as federal law whether sexually based or not and include dating violence, domestic violence, and stalking. Because you are reporting a possible form of sex-based discrimination, Davis College wants to inform you of our policy and procedures that address sexual assault, domestic violence, dating violence, and stalking, whether the incident occurs on or off campus as well as your rights and Davis College's responsibilities.

As a complainant of sexual assault, dating violence, domestic violence or stalking, you will receive a written explanation of your rights and options. Davis College has procedures in place that serve to be sensitive to those who report sexual assault, domestic violence, dating violence, and stalking. These procedures are explained in "Title IX Policy" and include information on your right to file criminal charges as well as the availability of medical, counseling and support services. We also offer additional remedies to prevent contact between a complainant and an accused party, such as temporary or permanent changes in housing, academic, transportation and working conditions, if reasonably available. The Title IX policy also addresses possible sanctions and interim and/or long-term protective measures that Davis College may impose following a report through the final determination of our discipline process. If you would like more information than is contained in this handout regarding any process or procedure, or if you'd like to make a report, ask questions about the Title IX policy, or need to request an accommodation to your living or working arrangements regardless of whether or not you chose to report the crime to law enforcement, or Campus Security, contact the Director of Student Development, Health Services or the Title IX Coordinator.

Title IX

Title IX of the Education Amendments Act of 1972 prohibits discrimination on the basis of sex in education programs or activities by recipients of federal financial assistance. All sexual misconduct complaints and grievances made under Title IX, including allegations of sexual violence, will be handled under this Policy.

Title IX Coordinator

The College's Title IX Coordinator is the Director of Student Development, who can be reached by calling 670-729-1581 ext. 311, or by emailing npost@davisny.edu. The Title IX Coordinator is:

- Responsible for oversight of the investigation and resolution of all reports of sexual harassment, including sexual assault;
- Knowledgeable and trained in relevant state and federal laws and the College's policies and procedures; Available to advise any individual, including a complainant, a respondent, or a third party, about the courses of action available at the College, both informally and formally, and the courses of action available externally, including reports to law enforcement;
- Available to provide assistance to any College community member regarding how to respond appropriately to reports of sexual assault and harassment;

- Responsible for monitoring full compliance with all requirements and timelines specified in the complaint procedures; and
- Responsible for compiling required reports.

Definitions

Bystander

Means a person who observes a crime, impending crime, conflict, potentially violent or violent behavior, or conduct that is in violation of rules or policies of Davis College.

The result must include any sanctions imposed by the institution. Notwithstanding section 444 of the General Education Provisions Act (20 U.S.C. 1232g), commonly referred to as the Family Educational Rights and Privacy Act (FERPA), the result must also include the rationale for the result and sanctions.

Bystander Intervention

Bystanders play a critical role in the prevention of sexual and relationship violence. They are not directly involved but have the choice to intervene, speak up, or do something about it.

What can Bystanders do to make a difference here at Davis College?

- Believe someone who tells you they have been sexually assaulted, are in an abusive relationship or are experiencing stalking or cyberstalking.
- Watch out for your friends and classmates -- if you come across someone who looks like they are in trouble, check in with them and make sure they are ok. If you see a friend doing something sketchy -- say something.
- Intervene-when you see something you are uncomfortable with involving another person, or someone is trying to take advantage of another person, step in and take preventative action. IF you need further assistance, contact Campus Safety. If off campus, contact 911.
- Speak up -- if someone says something offensive, derogatory, racist or abusive, let them know that this behavior is wrong and not acceptable. Don't laugh at racist, sexist or homophobic jokes. How to protect yourself from being a victim
- Program Campus Safety number 607-729-1581 ext. 411 into your speed dial in case of an emergency
- Be cautious and alert
- Do not walk or run alone, use the "buddy" system
- Do not give out personal information such as your phone number, or address to someone you don't know or are newly acquainted with
- Be aware of your surroundings when you are walking across campus, to and from your vehicle, and in remote areas
- Do not meet up with someone in a remote location
- Know where the Blue Light boxes are located on campus for urgent Campus Safety assistance
- If you live on campus, do not prop residence hall entrance doors open
- Avoid using drugs or alcohol
- When you go to a social gathering, go with a group of friends. • Don't leave your drink unattended.

- Don't except drinks that are already open, or from people you don't know or trust.
- Watch out for friends and vice versa.
- If you suspect a friend has been drugged, contact Campus Safety. If off campus, contact law enforcement by calling 911.

Confidentiality

May be offered by an individual who is not required by law to report know incidents of sexual assault or other crimes to institution officials, in a manner consistent with state and federal law, including but not limited to 20 U.S. C. 1092(f) and 20 U.S.C. 1681(a). Licensed mental health counselors, medical providers and pastoral counselors are examples of institution employees who may offer confidentiality.

Privacy

May be offered by an individual when such individual is unable to offer confidentiality under the law but shall still not disclose information learned from a reporting individual or bystander to a crime or incident more than necessary to comply with this and other applicable laws, including informing appropriate institution officials.

Accused

Means a person accused of a violation who has not yet entered Davis College's conduct process.

Respondent

Means a person accused of a violation ho has entered Davis College's conduct process.

Sexual Activity

Sexual activity has the same meaning as "sexual act" and "sexual contact" as provided in 18 U.S.C.2246(2) and 18 U.S.C. 2246(3).

Sexual act means:

- contact between the penis and the vulva or the penis and the anus, and for purposes of this subparagraph contact involving the penis occurs upon penetration, however slight;
- contact between the mouth and the penis, the mouth and the vulva, or the mouth and the anus;
- the penetration, however slight, of the anal or genital opening of another by a hand or finger or by any object, with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person; or
- the intentional touching, not through the clothing, of the genitalia of another person who has not attained the age of 16 years with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person;

Sexual contact means:

- "the intentional touching, either directly or through the clothing, of the genitalia, anus groin, breast, inner thigh, or buttocks of any person with an intent to abuse, humiliate, harass, degrade, or arouse or gratify the sexual desire of any person."

Domestic Violence

Domestic Violence: a felony or misdemeanor crime of violence committed

by a current or former spouse or intimate partner of the victim;

- by a person with whom the victim shares a child in common;
- by a person who is cohabiting with, or has cohabited with, the victim as a spouse or intimate partner;
- by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred; or
- by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the jurisdiction in which the crime of violence occurred.

For the purposes of complying with the requirements of this section and sub section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Dating Violence

Dating Violence: violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on the reporting party's statement and with consideration of the length of the relationship, the type of relationship, and the frequency of interaction between the persons involved in the relationship.

For the purposes of this definition: Dating violence includes, but is not limited to, sexual or physical abuse or the threat of such abuse. Dating violence does not include acts covered under the definition of domestic violence.

For the purposes of complying with the requirements of this section and sub section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Stalking

Stalking: engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others; or suffer substantial emotional distress.

For the purpose of this definition: Course of conduct means two or more acts, including but not limited to, acts in which the stalker directly, indirectly or through third parties, by any action, method, device, or means follows, monitors, observes, surveils, threatens, or communicates to or about, a person, or interferes with a person's property.

Reasonable person means a reasonable person under similar circumstances and with similar identities to the victim.

- **Stalking in the Fourth Degree:** When a person intentionally, and for not legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct (1) is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third party with whom such person is acquainted; or (2) causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that

conduct; or (3) is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct.

- **Stalking in the Third Degree:** When a person (1) Commits the crime of stalking in the fourth degree against any person in three or more separate transactions, for which the actor has not been previously convicted; or (2) commits the crime of stalking in the fourth degree against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) with an intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or (4) commits the crime or stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree.
- **Stalking in the Second Degree:** When a person: (1) Commits the crime of stalking in the third degree and in the course of and furtherance of the commission of such offense: (a) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shirken, "Kung Fu Star," dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapons; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or (2) commits the crime of stalking in the third against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or (3) commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree; or (4) being 21 years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or (5) commits the crime of stalking in the third degree, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted.
- **Stalking in the First Degree:** When a person commits the crime of stalking in the third degree or stalking in the second degree and, in the course and furtherance thereof, he or she intentionally or recklessly causes physical injury to the victim of such crime.

Substantial emotional distress means significant mental suffering or anguish that may, but does not necessarily, require medical or other professional treatment or counseling.

For the purposes of complying with the requirements of this section and sub section 668.41, any incident meeting this definition is considered a crime for the purposes of Clery Act reporting.

Sexual Assault

New York State does not specifically define sexual assault. However, according to the Federal Regulations, sexual assault includes offenses that meet the definitions of rape, fondling, incest, or statutory rape as used in the FBI's UCR program.

Rape

Rape: The penetration, no matter how slight, of the vagina or anus with any body part or object, or oral penetration by a sex organ of another person, without the consent of the victim

- **Rape in the Third Degree:** When a person (1) engages in sexual intercourse with another person who is incapable of consent by reason of some factor other than being less than 17 years old; (2) Being 21 years old or more, engages in sexual intercourse with another person less than 17 years old; or (3) engages in sexual intercourse with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent.
- **Rape in the Second Degree:** When a person (1) being 18 years old or more, engages in sexual intercourse with another person less than 15 years old; or (2) engages in sexual intercourse with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It is an affirmative defense to the crime of rape in the second degree the defendant was less than four years older than the victim at the time of the act.
- **Rape in the First Degree:** When a person engages in sexual intercourse with another person (1) by forcible compulsion; or (2) Who is incapable of consent by reason of being physically helpless; or (3) who is less than 11 years old; or (4) who is less than 13 years old and the actor is 18 years old or more.

Sex Offenses

Sex Offenses: Any sexual act directed against another person, without the consent of the victim, including instances where the victim is incapable of giving consent.

- A. **Fondling:** The touching of the private body parts of another person for the sexual gratification, without the consent of the victim, including instances where the victim is incapable of giving consent because of his/her age or because of his/her temporary or permanent mental incapacity.
- B. **Incest:** Sexual intercourse between persons who are related to each other within the degrees wherein marriage is prohibited by law.
- C. **Statutory Rape:** Sexual intercourse with a person who is under the statutory age of consent.

Arson

Any willful or malicious burning or attempt to burn, with or without intent to defraud, a dwelling house, public building, motor vehicle or aircraft, personal property of another, etc.

Criminal Homicide – Manslaughter by Negligence

The killing of another person through gross negligence.

Criminal Homicide – Murder and Nonnegligent Manslaughter

The willful (nonnegligent) killing of one human being by another.

Robbery

The taking or attempting to take anything of value from the care, custody, or control of a person or persons by force or threat of force or violence and /or by putting the victim in fear.

Aggravated Assault

An unlawful attack by one person upon another for the purpose of inflicting severe or aggravated bodily injury. This type of assault usually is accompanied by the use of a weapon or by means likely to produce death or great bodily harm. (It is not necessary that injury result from an aggravated assault when a gun, knife, or other weapon is used which could and probably would result in serious personal injury if the crime were successfully completed).

Burglary

The unlawful entry of a structure to commit a felony or a theft. For reporting purposes, this definition includes: unlawful entry with intent to commit a larceny or felony; breaking and entering with intent to commit a larceny; housebreaking; safecracking; and all attempts to commit any of the aforementioned.

Motor Theft

The theft or attempted theft of a motor vehicle. (Classify as motor vehicle theft all cases where automobiles are taken by persons not having lawful access even though the vehicles are later abandoned – including joyriding).

Weapons: Carrying, Possessing, Etc.

The violation of laws or ordinances prohibiting the manufacture, sale, purchase, transportation, possession, concealment, or use of firearms, cutting instruments, explosives, incendiary devices, or other deadly weapons.

Larceny – Theft (Except Motor Vehicle Theft)

The unlawful taking, carrying, leading or riding away of property from the possession or constructive possession of another. Attempted larcenies are included. Embezzlement, confidence games, forgery, worthless checks, etc., are excluded.

Simple Assault

An unlawful physical attack by one person upon another here neither the offender displays a weapon, nor the victim suffers obvious severe or aggravated bodily injury involving apparent broken bones, loss of teeth, possible internal injury, severe laceration, or loss of consciousness.

Intimidation

To unlawfully place another person in reasonable fear of bodily harm through the use of threatening words and or other conduct, but without displaying a weapon or subjecting the victim to actual physical attack.

Destruction / Damage / Vandalism of Property

To willfully or maliciously destroy, damage, deface, or otherwise injure real or personal property without the consent of the owner or the person having custody or control of it.